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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,502	06/22/2005	Motoki Tsunokawa	261889US6PCT	7858

22850 7590 03/02/2009  
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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INGVOLDSTAD, BENNETT

ART UNIT	PAPER NUMBER
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2427

NOTIFICATION DATE	DELIVERY MODE
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03/02/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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**Advisory Action**  
**Before the Filing of an Appeal Brief**

Application No.

10/518,502

Applicant(s)

TSUNOKAWA ET AL.

Examiner

Bennett Ingvaldstad

Art Unit

2427

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 13-16.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☒ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). 12/15/08  
13. ☐ Other: \_\_\_\_\_.

/Scott Beliveau/  
Supervisory Patent Examiner, Art Unit 2427

/Bennett Ingvaldstad/  
Examiner, Art Unit 2427

Continuation Sheet.

Applicant's arguments do not place the application in condition for allowance.

Applicant's perfection of the priority claim to the earlier Japanese application does not overcome the rejection citing the Patel reference, since Patel has priority to a provisional application antedating the filing date of the Japanese application. Patel's provisional application has full support for the matter cited by the rejection. See the provisional at pg. 4, lines 19-22.

Applicant argues against the new matter rejections by referring to Figure 13 box S42. Remarks at 4, 5. Applicant argues that the illustrated "instruction to supply characteristic word file" supports the claimed "receiv[ing] a file containing information about said characteristic word from said recording and playback apparatus." This is unpersuasive. The "said characteristic word" refers to the word "selected by said user" in claim 13, which selection occurs between steps S51 and S52. Therefore, the instruction to supply the entire characteristic word file of S42 cannot be reasonably construed to support the claimed "file containing information about said characteristic word," since the particular characteristic word is not even selected yet at step S42. Further, Applicant argues that the first device refers to the server 2 illustrated at Figure 13. However, the parent claim 13 claims a second device that "receive[s] television program information about a television program corresponding to said selected characteristic word transmitted from said recording and playback apparatus...." This receiving step refers to the illustrated step S44, which implies that the server 2 is Applicant's second device. The server 2 cannot be both the second device and the first device as argued by Applicant, so the argument is further unpersuasive.

Applicant traverses the 102 rejections citing Knudson. Applicant particularly argues over the claimed second device, which is a met by Knudson's television. Knudson's television receives search results as cited. Search categories selected via the television user interface by a user of the television are "characteristic words" as explained in the rejection. A server performs a search using the characteristic words and returns the search results for display at the television. The claimed recording/playback apparatus is met by Knudson's user equipment, which outputs the user interface for display at the television. Therefore, it is clear that Knudson's television receives information "transmitted from said recording and playback apparatus," ie, user interface information transmitted for display to the television, the transmission occurring "as a result of transmitting information about said selected characteristic word," ie, as a result of ordering the search of the selected search category to be performed at the server.

Therefore, all of Applicant's arguments are unpersuasive, and the rejections are upheld.